87-927

Supreme Court, U.S.
FILED
NOV 16 1987
JOSEPH F. SPANIOL, JR.
CLERK

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1987

RUPERT RICHARDSON, ET AL.,
Appellants,

v.

EDWIN W. EDWARDS, ET AL.,
Appellees.

On Appeal From the United States District Court for the Middle District of Louisiana

Appendix

JURISDICTIONAL STATEMENT

ERNEST L. JOHNSON*
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(504) 929-7676

**Counsel of Record*

November 16, 1987

APPENDIX A

Opinion of the U.S. District Court for the Middle District of Louisiana

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

MINUTE ENTRY:

SEPTEMBER 16, 1987

POLITZ, C.J.
PARKER, D.J.
POLOZOLA, D.J.

RUPERT RICHARDSON, ET AL

VERSUS — CIVIL ACTION

EDWIN W. EDWARDS, ET AL — NO. 87-473-A

This cause came on this day for an evidentiary hearing on plaintiffs' renewed motion for temporary restraining order and for preliminary injunction and on defendants' motion for summary judgment.

PRESENT: Ernest L. Johnson, Esq.
Counsel for plaintiffs

Adrienne Dupont, Esq.
Counsel for defendants

Kenneth C. DeJean is sworn and testifies.

Plaintiffs rest.

Defendants present no evidence and rest.

Counsel present their arguments to the court.

For the reasons read into the record, which shall constitute

the Court's Findings of Fact and Conclusions of Law, the motion for summary judgment filed on behalf of defendants is hereby GRANTED.

The preliminary injunction previously issued is hereby VACATED.

The court ordered that the three-judge district court convened in this matter DISSOLVED and this action is remitted to a single judge of the district court for further proceedings.

APPENDIX B

Judgment of the U.S. District Court for the Middle District of Louisiana

IN THE UNITED STATES DISTRICT COURT

FOR THE MIDDLE DISTRICT OF LOUISIANA

RUPERT RICHARDSON, CHARLES JONES, HERBERT BAPTISTE, SAM THOMAS, ZELMA WYCHE, WILLIE HUNTER, CLIFTON LEMELLE, DONIS HOOD, KENNETH COATES, G.G. METOYER, MALCOLM JONES,

Plaintiffs,

VERSUS CA 87-473-A

EDWIN W. EDWARDS, GOVERNOR OF LOUISIANA; WILLIAM J. GUSTE, JR., ATTORNEY GENERAL OF LOUISIANA; AND JAMES H. BROWN, SECRETARY OF STATE OF LOUISIANA; IN THEIR OFFICIAL CAPACITIES,

Defendants

JUDGMENT

A three-jduge court was empaneled to hear certain claims involving the Voting Rights Act of 1965, 42 U.S.C. 1973(c). Plaintiffs sought declaratory and injunctive relief and defendants moved for summary judgment dismissal of those claims. Trial of the merits of the three-judge court issues was advanced, Fed. R. Civ. P. 65, and those issues were submitted. After considering the evidence, memoranda of law and arguments of counsel, the court granted defendants' motion for summary judgment. There being no just reason to delay

entry of a judgment on the issues submitted to the three-judge court, said entry is now directed. Fed. R. Civ. P. 54(b).

IT IS ORDERED ADJUDGED AND DECREED that defendants' motion for summary judgment is granted and plaintiffs' demands based on allegations of a failure of section 5 preclearance of Article 4 Section 20 of the Louisiana Constitution of 1974, and of Acts 444 and 857 of the 1985 Louisiana Legislature are dismissed with prejudice and at plaintiffs' costs.

Baton Rouge, Louisiana, this 18 day of September 1987.

s/ Henry A. Politz
United States Circuit Judge

s/ John V. Parker
United States District Judge

s/ Frank J. Polozola
United States District Judge

APPENDIX C

NOTICE OF APPEAL

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF LOUISIANA
DIVISION "A"

RUPERT RICHARDSON, CHARLES JONES,
HERBERT BAPTISTE, SAM THOMAS,
ZELMA WYCHE, WILLIE HUNTER,
CLIFTON LEMELLE, DONIS HOOD,
KENNETH COATES, G.G. METOYER,
MALCOLM JONES

CIVIL ACTION

Plaintiffs,

NO: CA-87-473-A

VERSUS

EDWIN EDWARDS, ET AL

Defendants.

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES

Notice is hereby given that Rupert Richardson, Charles Jones, Herbert Baptiste, Sam Thomas, Zelma Wyche, Willie Hunter, Clifton LeMelle, Donis Hood, Kenneth Coates, G.G. Metoyer, Malcolm Jones, plaintiffs above named, hereby appeal to the Supreme Court of the United States from the final order granting summary judgment for the defendants, entered in this action on September 16, 1987.

This action is taken pursuant to 28 U.S.C. section 1253.

BY: ATTORNEY

s/ Ernest L. Johnson

ERNEST L. JOHNSON
Attorney at Law
5700 Florida Boulevard
Suite 209
Baton Rouge, LA 70806
(504) 929-7676

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing Notice of Appeal to the Supreme Court of the United States has been served upon opposing counsel of record by depositing same in the U.S. Mails, postage prepaid, this 28th day of September, 1987.

s/ Ernest L. Johnson

ERNEST L. JOHNSON

APPENDIX D

Consent Judgment of the U.S. District Court for the Middle District of Louisiana

IN THE UNITED STATES DISTRICT COURT

FOR THE MIDDLE DISTRICT OF LOUISIANA

RUPERT RICHARDSON, CHARLES JONES, HERBERT BAPTISTE, SAM THOMAS, ZELMA WYCHE, WILLIE HUNTER, CLIFTON LEMELLE, DONIS HOOD, KENNETH COATES, G.G. METOYER, MALCOLM JONES,

Plaintiffs,

VERSUS CA 87-473-A

EDWIN W. EDWARDS, GOVERNOR OF LOUISIANA; WILLIAM J. GUSTE, JR., ATTORNEY GENERAL OF LOUISIANA; AND JAMES H. BROWN, SECRETARY OF STATE OF LOUISIANA; IN THEIR OFFICIAL CAPACITIES,

Defendants

CONSENT JUDGMENT

The above entitled action is before the Court in which the Plaintiffs seek a declaratory judgment and a temporary restraining order, preliminary and permanent injunctions against the Governor of Louisiana and its Attorney General and Secretary of State in their official capacities, enjoining them from enforcing the provisions of Acts 444 and 857 both enacted by the Louisiana Legislature in 1985. Also before the Court is a joint motion for approval, and adoption of a proposed consent judgment.

In 1985 the Louisiana Legislature adopted Act 444 which provided for the appointment of the Louisiana State Superintendent of Education in lieu of election as provided for by Article IV, Section 20, and Article VIII, Section 2 of the Louisiana Constitution of 1974.

Act 444 of 1985 constitutes a change in a voting practice subject to Section 5 of the Federal Voting Rights Act of 1965, 42 U.S.C. 1973c. Act 444 has not been precleared by the United States Attorney General nor has an action been commenced or decided in the United States District Court for the District of Columbia seeking a declaratory judgment that Act 444 does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in 42 U.S.C. 1973b(f)(2).

In view of the above, the parties began settlement negotiations which have resulted in the presentation of their consent judgment to partially compromise and settle the issues in this case.

Act 444 of 1985 was submitted to the United States Attorney General, has been received by that office, and is being considered pursuant Section 5 as Department of Justice Submission #S-2883-2884. The United States Attorney General will have up to 60 days from the date of his receipt, June 19, 1987, of Act 444 to make a determination pursuant to Section 5.

Plaintiffs are entitled to a declaratory judgment that Act 444 of 1985 is a change with respect to elections subject to 42 U.S.C. 1973c and are entitled to a preliminary injunction barring implementation of Act 444 and reinstating the office of Superintendent of Education as an elective office until the United States Attorney General issues preclearance of Act 444 entering no objection to such implementation or until the United States District Court for the District of Columbia would issue its declaratory judgment pursuant to 42 U.S.C.

1973c clearing Act 444. This injunction shall become permanent in the event that the submission is rejected by the United States Department of Justice.

Having considered the Motion for Approval and Adoption of the Proposed Consent Judgment, the Court finds that the Motion for Approval and Adoption of Proposed Consent Judgment is meritorious and, therefore, should be granted; that this Consent Judgment constitutes a fair and equitable partial settlement on the Section 5 issue involving Act 444 in this action.

IT IS, THEREFORE ORDERED, ADJUDGED AND DECREED:

1. That the parties' Motion for Approval and Adoption of the Proposed Consent Judgment is hereby granted and the Court hereby fully approves, adopts and enters this Consent Judgment as partial and interim settlement of the Section 5 issue relating to Act 444 of 1985.

2. The previous method of electing the Office of State Superintendent of Education is hereby reinstated until Act 444 of 1985 is either precleared by the United States Department of Justice or until a Declaratory Judgment is obtained by the defendants from the U.S. District Court for the District of Columbia.

3. This injunction shall become permanent in the event the submission of Act 444 of 1985 is rejected by the United States Department of Justice.

4. All other rights of the plaintiffs to litigate claims pursuant to Section 5 are reserved.

ORDERED, ADJUDGED, AND DECREED, on this, the 29th of June, 1987.

s/ Henry A. Politz
UNITED STATES CIRCUIT JUDGE

s/ John V. Parker
UNITED STATES DISTRICT JUDGE

s/ Frank J. Polozola
UNITED STATES DISTRICT JUDGE

APPROVED AND AGREED TO:

s/ Ernest L. Johnson
ERNEST L. JOHNSON
Attorney for Plaintiff

s/ Kenneth C. DeJean
KENNETH C. DeJEAN
Chief Counsel to Louisiana Attorney General

APPENDIX E

ORDERS of the U.S. District Court

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

RUPERT RICHARDSON, ET AL

CIVIL ACTION

VERSUS

NO. 87-473-A

EDWIN EDWARDS, ET AL

ORDER

The court having been advised that Act 444 of the Louisiana Legislature of 1985 has now been submitted to and "precleared" by the United States Department of Justice, as is shown by the attached document marked "Exhibit 1," Paragraph 2 of the "Consent Judgment" dated June 29, 1987, is hereby vacated and set aside.

An **evidentiary hearing** is hereby fixed for **September 14, 1987, at 11:30 a.m.** on all other claims of plaintiffs pursuant to Section 5 which were "reserved" in Paragraph 4 of the "Consent Judgment" dated June 29, 1987.

Baton Rouge, Louisiana, September 11, 1987.

s/John V. Parker
JOHN V. PARKER, CHIEF JUDGE
MIDDLE DISTRICT OF LOUISIANA

s/Frank J. Polozola
FRANK J. POLOZOLA, UNITED STATES DISTRICT JUDGE

s/Henry A. Politz
HENRY A. POLITZ, UNITED STATES CIRCUIT JUDGE

By J.V.P.

APPENDIX F

ORDERS of the U.S. District Court

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

RUPERT RICHARDSON, ET AL

CIVIL ACTION

VERSUS

NO. 87-473-A

EDWIN EDWARDS, ET AL

AMENDING ORDER

The first paragraph of the order signed by the three-judge court on September 11, 1987, is hereby amended to read as follows:

The court having been advised that Act 444 **and Act 857** of the Louisiana Legislature of 1985 have now been submitted to and "precleared" by the United States Department of Justice, as is shown by the attached document marked "Exhibit 1," Paragraph 2 of the "Consent Judgment" dated June 29, 1987, is hereby vacated and set aside.

Baton Rouge, Louisiana, September 14, 1987.

s/ John V. Parker
JOHN V. PARKER, CHIEF JUDGE
MIDDLE DISTRICT OF LOUISIANA

s/ Frank J. Polozola
FRANK J. POLOZOLA, UNITED STATES
DISTRICT JUDGE

s/ Henry A. Politz
HENRY A. POLITZ, UNITED STATES
CIRCUIT JUDGE By J.V.P.